

ITEM NO.1

COURT NO.3

SUPREME COURT OF RECORD OF PROCEEDINGS

SECTION XIV INDIA

Petition(s) for Special Leave to Appeal (C) Nos.30748-30749/2017

(Arising out of impugned final judgment and order dated 31-10-2017 in CM No.19815/2012 31-10-2017 in CM No.46919/2016 passed by the High Court of Delhi at New Delhi)

ALL INDIA FOOTBALL FEDERATION - Petitioner(s)

VERSUS

RAHUL MEHRA & ORS. - Respondent(s)

(With IA No.132863/2020 - APPLICATION FOR EXEMPTION FROM FILING TYPED DOCUMENTS, IA No.136529/2020 - APPLICATION FOR PERMISSION, IA No.132356/2020 - APPLICATION FOR VACATION OF INTERIM ORDER, IA No. 120057/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.52821/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.25119/2020 - CLARIFICATION/DIRECTION, IA No.91992/2021 - EARLY HEARING APPLICATION, IA No.132355/2020 - EARLY HEARING APPLICATION, IA No.118219/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.131744/2020 - INTERVENTION APPLICATION, IA No.98733/2022 - INTERVENTION APPLICATION, IA No.98631/2022 - INTERVENTION APPLICATION, IA No.120713/2017 - MODIFICATION OF COURT ORDER and IA No.118222/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 03-08-2022

These matters were called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE J.B. PARDIWALA**

For Petitioner(s)

For CoA

Mr. Gopal Sankaranarayanan, Sr. Adv.

Mr. Samar Bansal, Adv.

Mr. Nagarkatti Kartik Uday, AOR

Mr. Siddharth Nath, Adv.
Mr. Madhav Gupta, Adv.
Ms. Jhanvi Dubey, Adv.
Ms. Khushboo Hora, Adv.

Mr. Premtosh Mishra, Adv.
Mr. Debmalya Banerjee, Adv.
Mr. Kartik Bhatnagar, Adv.
Mr. Rohan Sharma, Adv.
Mr. Anmol, Adv.
Mr. Nicholas Choudhury, Adv.
Mr. Shreesh Chadha, Adv.
M/s. Karanjawala & Co.

For Respondent(s)

Mr. Rahul Mehra, Caveator-in-person
Mr. Chaitanya Gosain, Adv.
Mr. Amanpreet Singh, Adv.
Mr. Anand Thumbayil, Adv.

Mr. Sanjay Jain, ASG
Mr. Apoorv Kurup, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Padmesh Mishra, Adv.
Ms. Tanya Aggarwal, Adv.
Mr. Nishank Tripathi, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Amrish Kumar, AOR

Mr. Nar Hari Singh, AOR
Mr. Hemant Phalphor, Adv.

Dr. Amaresh Kumar, Adv.
Mr. Anshuman Amaresh, Adv.
Mr. Shuvodeep Roy, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Ritin Rai, Sr. Adv.
Mr. Sanjeev Kapoor, Adv.

Mr. Sahil Naran, Adv.
Mr. Dhritiman Roy, Adv.
Mr. Madhavam Sharma, Adv.
Mr. Ayushman Kacker, Adv.
Ms. Samriddhi Shukla, Adv.
M/s. Khaitan & Co.

Dr. Menaka Guruswamy, Sr. Adv.

Mr. Prateek K Chadha, AOR

Mr. Yash S. Vijay, Adv.

Ms. Ayushi Rajput, Adv.

Mr. Utkarsh Pratap, Adv.

Mr. Prashant Bhushan, Adv.

Mr. Harsh Vardhan Kotla, Adv.

Mr. Kshitij Maneshwari, Adv.

Mr. N. Sai Vinod, AOR

UPON hearing the counsel the Court made the following ORDER

1. On 10 November 2017, this Court while constituting a Committee of Administrators¹ observed that its remit would, among other things, be to (i) formulate the Constitution of the All India Football Federation² in consonance with the National Sports Code and the Model Guidelines; and (ii) conduct elections and ensure the constitution of the Executive Committee. Thereafter, by an order dated 18 May 2022, the constitution of the CoA was modified.
2. The CoA consists of a former Judge of this Court; a former Chief Election Commissioner who has held the post of Secretary in the Ministry of Youth Affairs & Sports; and a former captain of the Indian football team. The order of this Court empowered the CoA to provide its inputs to facilitate the adoption of the Constitution of the AIFF under the directions of the Court after considering suggestions/objections. The CoA was also directed to prepare the electoral college for the purpose of conducting elections to the Executive Committee in accordance with the provisions of the Constitution as proposed subject to further directions of this Court.
3. On 21 July 2022, this Court noted that the CoA had received nearly 215 comments from objectors, including the State Associations and FIFA-AFC. The CoA accepted nearly 98% of the objections. The CoA has interacted with a delegation of the FIFA which visited India.
4. On 11 October 2022, the FIFA Under-17 Women's World Cup 2022 is due to commence. India is to host the World Cup. FIFA has indicated to the CoA that the inaugural of the Under-17 tournament should be carried out under the auspices of a democratically elected body of AIFF. From this perspective and bearing in mind the legitimate concerns of FIFA, it is necessary to expedite the elections.
5. During the course of the previous hearing on 28 July 2022, there was a general consensus that with this end in view the Court should issue specific directions in regard to the holding of elections. The finalization of the Constitution may take some more time since all the objectors would have to be given an adequate opportunity of being heard. However, a need has been expressed uniformly that the holding of the elections should not be delayed any further.
6. There is a consensus that the elections should be conducted in a manner which is in consonance with the National Sports Code and the draft Constitution.
7. We have heard Mr Gopal Sankaranarayanan, senior counsel appearing on behalf of the CoA, Mr Sanjay Jain, Additional Solicitor General representing the Ministry of Youth Affairs and Sports, Mr Rahul Mehra, caveator in-person, Dr Menaka Guruswamy, senior counsel representing 35 out of 36 State Associations, Mr K V Vishwanathan, senior counsel appearing on behalf of the FSDL and Mr Prashant Bhushan and Dr Amaresh Kumar for the intervenors.

8. Dr Menaka Guruswamy, senior counsel has submitted before the Court that the 35 State Associations whom she represents, in turn, represent the interest of 7000 clubs, 700 district Associations and 5,00,000 football players across the country.
9. Broadly speaking, the scheme which has been proposed by the CoA for conducting the elections can now be analyzed. For the purpose of the ensuing elections, the electoral college will comprise of (i) representatives of State Federations; and (ii) representatives of eminent players. There are 36 State Federations, each of whom would select one representative to represent the State Federation in the electoral college for AIFF. Each of them would have one vote. Article 26 of the draft Constitution prescribes the term, tenure, age limit and other conditions of eligibility. The CoA has proposed that for the ensuing elections, a list of 36 eminent player representatives will form a part of the electoral college. Initially, it was proposed that a national players' association can be constituted for selecting the representatives of eminent football players, but at this stage, due to the exigencies of time, the representatives of eminent players will be chosen on the basis of their seniority, based on the number of international matches played while representing India. Of the 36 players' representatives, there will be 24 male football players and 12 female players for the first election. The CoA proposes to draw up a consolidated list of eminent players for this purpose within ten days by taking the assistance of existing associations, clubs and stakeholders so as to ensure that the list of eminent players is as comprehensive as possible.
10. At this stage, it would be necessary for the Court to deal with the submission urged by Dr Menaka Guruswamy appearing on behalf of the State Associations. The submission is that in terms of the National Sports Code 2011, sports persons are entitled to voting only in the management of national sports federations. In this context, senior counsel relied on clause 9.3(12). It has been submitted that clauses 3.9, 3.10 and 3.20 of the Model Guidelines indicate that State Associations exclusively have the right to vote in the elections to the Executive Committee. Moreover, it has been submitted that the Model Election Guidelines contemplate that it is only the State Associations who would be entitled to vote in the ensuing elections. Hence, it has been urged that allowing eminent players to vote in the elections would not be consistent with the National Sports Code.
11. In order to appreciate the submission, we have analyzed the provisions of the National Sports Code. Clause 9.3 envisages that in order to be eligible for assistance from and for continuation of the recognition of government, national sporting organizations must meet several criteria. Included among them is sub-clause xii, which envisages the inclusion of sports persons (say 25%) with voting rights in the management of national sports federations. Sub-clause xiii envisages that elections have to be held in terms of the Model Election Guidelines. Clause 3.9 and 3.10 are extracted below:

“3.9 The membership of the Federation should be confined to the corresponding State/UT and other special units affiliated (like Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

3.10 At the National level, there will be only one recognised federation for each discipline of sport. Only the duly recognised National Sports Federation would be entitled to financial grants as admissible. Only one State/UT Association from each State/UT shall be admitted as a member of the Federation, provided it has a minimum of 50% of the District level Associations affiliated to it. Any organisation of an all India standing and connected with the Sport may be given the status as that of a State or that of a U.T. and admitted as affiliated Member. Other categories of membership may also be

given but while each affiliated State/UT Unit shall have a right to cast vote in the General Body Meetings, no other class of Members shall have any right to vote in the Federation's meetings. While granting recognition/affiliation to a State/UT Association, the National Federation should take into consideration the representative character of the State/UT Association so as to ensure that only truly representative body of the game gets the recognition/affiliation."

12. Clause 3.9 envisages that membership of the Federation should be confined to the corresponding States or as the case may be, Union Territories and to other affiliated special units. Where a Federation grants membership to clubs or persons, this would not confer a right to vote on them. Similarly, clause 3.10 envisages that apart from the State Associations other categories of membership may also be given, but while each affiliated State/Union Territory unit would have a right to vote in the General Body Meetings, no other class of members would have a right to vote. These provisions would have to however be read together with clause 3.20 which provides as follows:

"3.20 Inclusion of prominent sports persons of outstanding merit as members of the respective sports federations on a tenure basis. The strength of such prominent sports persons with voting rights should be a certain minimum percentage (say 25%) of the total members representing the federation and selection of such sports persons should be in consultation with this Department."

13. Clause 3.20 therefore envisages the inclusion of prominent sports persons as members of sports federations on a tenured basis. Their voting rights should be fixed at a certain minimum percentage, say 25% of the total members representing the Federation. The selection of such sports persons should be in consultation with the Department of Youth Affairs and Sports. In other words, there are two specific provisions which contemplate the inclusion of sports persons. There is on the one hand clause 9.3(12) which specifically contemplates the inclusion of sports persons (say 25%) with voting rights in the management of national sports federations. On the other hand, clause 3.20 also provides for the inclusion of prominent sports persons with a certain minimum percentage of voting rights (say 25%) of the total members representing the Federation. The use of the expression "say 25%" indicates that 25% is only an indicative figure and the extent of the voting rights has to be decided upon deliberation with the Ministry of Youth Affairs and Sports.
14. Appearing for the Ministry, Mr Sanjay Jain, Additional Solicitor General submitted that the Sports Code is an enabling document and not a restrictive document. The Union Ministry has specifically endorsed the need for including 36 eminent players who have represented India in at least one international match.
15. The National Sports Code cannot be read in the manner of a statute. A holistic understanding of its provisions has to be arrived at in order to effectuate both its intent and purpose. In this backdrop, consistent with the need for the healthy development of the sport of football in India, the inclusion of eminent players who have represented the country would be of immense benefit. The administration of the affairs of football will benefit from the experience, knowledge and concerns of the players themselves. They are vital stakeholders. Apart from the above analyses, we have also taken note of the fact that the model statutes which are being notified by FIFA do also contemplate due representation to sports players.